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10 and Wyndham Vacation Ownership, Inc.

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

13 SHIRLEY SYMONDS, an individual,
14
15 Plaintiff,

16 v.

17 WYNDHAM VACATION RESORTS,
18 INC., a California Corporation;
19 WYNDHAM VACATION OWNERSHIP,
20 INC., a California Corporation;
21 TIMESHARE LEGAL, LLC, a New Jersey
22 Limited Liability Company; and DOES 1
23 through 50, inclusive,

24 Defendants.

Case No.: 8:15-cv-02083-CJC-DFMx

DISCOVERY MATTER

**STIPULATED [~~PROPOSED~~]
PROTECTIVE ORDER**

25 **STIPULATED [~~PROPOSED~~] PROTECTIVE ORDER**

1 It appearing that discovery in the above-captioned action is likely to involve
 2 the disclosure of confidential information, and upon agreement of the parties that
 3 the entry of this Stipulated Protective Order will expedite the flow of discovery
 4 materials, protect information entitled to confidential treatment, and provide
 5 protection only for materials so entitled, IT IS HEREBY ORDERED THAT:

6 1. Any party to this litigation and any third party shall have the right to
 7 designate as “Confidential” and subject to this Order any information, document, or
 8 thing, or portion of any document or thing that: (a) contains trade secrets,
 9 competitively sensitive technical, marketing, financial, sales or other confidential
 10 business information; (b) contains private or confidential personal information; (c)
 11 contains information received from third parties that is reasonably considered
 12 confidential, or (d) the producing party otherwise believes in good faith to be
 13 entitled to protection under Rule 26(c)(1)(G) of the Federal Rules of Civil
 14 Procedure (“Confidential Information”). Any party to this litigation, or any third
 15 party covered by this Order, who produces or discloses any Confidential
 16 Information, including without limitation any information, document, thing,
 17 interrogatory answer, admission, pleading, or testimony, shall mark the same with
 18 the foregoing or similar legend: “CONFIDENTIAL” or “CONFIDENTIAL –
 19 SUBJECT TO PROTECTIVE ORDER.”

20 2. Any party to this litigation and any third party shall have the right to
 21 designate as “Attorneys’ Eyes Only” and subject to this Order any information,
 22 document, or thing, or portion of any document or thing that contains highly
 23 sensitive business or personal information, the disclosure of which is highly likely
 24 to cause significant harm to an individual or to the business or competitive position
 25 of the designating party (“Attorneys’ Eyes Only Information”). Any party to this
 26 litigation or any third party who is covered by this Order, who produces or
 27 discloses any Attorneys’ Eyes Only Information, including without limitation any
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1 information, document, thing, interrogatory answer, admission, pleading, or
2 testimony, shall mark the same with the foregoing or similar legend:
3 “ATTORNEYS’ EYES ONLY” or “ATTORNEYS’ EYES ONLY – SUBJECT TO
4 PROTECTIVE ORDER.”

5 3. All Confidential and Attorneys’ Eyes Only Information, together with
6 any and all excerpts, notes or summaries of such information, shall be used solely
7 for purposes of the prosecution or defense of this action, shall not be used for any
8 business, commercial, competitive, personal or other purpose, and shall not be
9 disclosed other than as provided in Paragraph 4 below (for Confidential
10 Information) or as provided in Paragraph 6 below (for Attorneys’ Eyes Only
11 Information), unless and until the restrictions of this Protective Order are removed
12 either by written agreement of counsel for the parties, or by Order of the Court. It
13 is, however, understood that counsel for a party may provide legal advice to his or
14 her client in this action, solely relating to the above-captioned action, based on his
15 or her evaluation of Confidential or Attorneys’ Eyes Only Information, provided
16 that such advice shall not reveal the content of such Confidential or Attorneys’ Eyes
17 Only Information except by prior written agreement of counsel for the parties, or by
18 Order of the Court.

19 4. Confidential Information and the contents of Confidential Information
20 may be disclosed only to the following individuals under the following conditions:

21 a. Outside counsel (defined to mean any attorney at the parties’
22 outside law firms) and inside counsel for the parties;

23 b. Outside independent experts or consultants retained by outside
24 counsel for purposes of this action, provided they have signed, in advance, a non-
25 disclosure agreement in the form attached to this Order as Exhibit A, to be
26 maintained for 7 years by the retaining counsel;

27 c. Secretarial, paralegal, clerical, duplicating and data processing
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1 personnel employed or retained by the persons described in Pars. (a) – (b) above;

2 d. The Court and court personnel;

3 e. Any deponent may be shown or examined on any information,
4 document or thing designated Confidential if it appears that the witness authored or
5 received a copy in the ordinary course of business, is an officer, director, employee
6 or agent of the party who produced the information, document or thing, if it is
7 established at the deposition that the deponent has independent knowledge of the
8 information, or if the producing party consents to such disclosure, or the deponent
9 otherwise agrees to be bound by the Stipulated Protective Order;

10 f. Vendors retained by or for the parties to assist in preparing for
11 pretrial discovery, trial and/or hearings including, but not limited to, court reporters
12 and litigation support personnel as well as their staff and clerical employees whose
13 duties and responsibilities require access to such materials; and

14 g. The parties.

15 5. With respect to any depositions that involve a disclosure of
16 Confidential Information of a party to this action, such party shall have until thirty
17 (30) days after receipt of the deposition transcript within which to inform all other
18 parties that portions of the transcript are to be designated Confidential, which
19 period may be extended by agreement of the parties. No such deposition transcript
20 shall be disclosed to any individual other than the individuals described in
21 Paragraph 4(a), (b), (c), (d), (f) and (g) above and the deponent during these thirty
22 (30) days, and no individual attending such a deposition shall disclose the contents
23 of the deposition to any individual other than those described in Paragraph 4(a), (b),
24 (c), (d), (f) and (g) above during said thirty (30) days. Upon being informed that
25 certain portions of a deposition are to be designated as Confidential, all parties shall
26 immediately cause each copy of the transcript in its custody or control to be
27 appropriately marked and limit disclosure of that transcript in accordance with

1 Paragraphs 3 and 4.

2 6. Materials produced and marked as Attorneys' Eyes Only may be
3 disclosed only to the following persons under the following restrictions:

4 a. Outside counsel for the receiving party (defined to mean any
5 attorney at the parties' outside law firms who is actively participating in this
6 litigation) and inside counsel for the parties;

7 b. Secretarial, paralegal, clerical, duplicating and data processing
8 personnel of the foregoing;

9 c. Outside independent experts or consultants retained by outside
10 counsel for purposes of this action, as well as their staff and clerical employees
11 whose duties and responsibilities require access to such materials, provided that the
12 outside independent expert or consultant has signed, in advance, a non-disclosure
13 agreement in the form attached to this Order as Exhibit A, to be maintained for 7
14 years by the retaining counsel;

15 d. The Court and court personnel, as long as any discussion or
16 submission is made under seal, in camera or as otherwise ordered by the Court;

17 e. Vendors retained by or for the parties to assist in preparing for
18 pretrial discovery, trial and/or hearings including, but not limited to, court reporters
19 and litigation support personnel, as well as their staff and clerical employees whose
20 duties and responsibilities require access to such materials, provided that a
21 representative of the vendor has signed, in advance, a non-disclosure agreement in
22 the form attached to this Order as Exhibit A, to be maintained for 7 years by the
23 retaining counsel;

24 7. If counsel for a party receiving documents or information designated
25 as Confidential or Attorneys' Eyes Only objects to such designation of any or all of
26 such items, the following procedure shall apply:

27 a. Counsel for the objecting party shall serve on the designating
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1 party or third party a written objection to such designation, which shall describe
2 with particularity the documents or information in question and shall state the
3 grounds for objection. Counsel for the designating party or third party shall
4 respond in writing to such objection within 14 days, and shall state with
5 particularity the grounds for asserting that the document or information is
6 Confidential or Attorneys' Eyes Only. If no timely written response is made to the
7 objection, the challenged designation will be deemed to be void unless relief is
8 obtained from the Court based on a showing of good cause. If the designating party
9 or nonparty makes a timely response to such objection asserting the propriety of the
10 designation, counsel shall then confer in good faith in an effort to resolve the
11 dispute.

12 b. If a dispute as to a Confidential or Attorneys' Eyes Only
13 designation of a document or item of information cannot be resolved by agreement,
14 the proponent of the designation being challenged shall present the dispute to the
15 Court. Any such motion must be made in strict compliance with Local Rules 37-1
16 and 37-2, including the Joint Stipulation requirement set forth therein. The
17 document or information that is the subject of the filing shall be treated as
18 originally designated pending resolution of the motion.

19 8. If the need arises during trial or at any hearing before the Court for any
20 party to disclose Confidential or Attorneys' Eyes Only information, it may do so
21 only after giving notice to the producing party and as directed by the Court.

22 9. To the extent consistent with applicable law, the inadvertent or
23 unintentional disclosure of Confidential or Attorneys' Eyes Only Information that
24 should have been designated as such, regardless of whether the information,
25 document or thing was so designated at the time of disclosure, shall not be deemed
26 a waiver in whole or in part of a party's claim of confidentiality, either as to the
27 specific information, document or thing disclosed or as to any other material or
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1 information concerning the same or related subject matter. Such inadvertent or
2 unintentional disclosure may be rectified by providing to counsel for all parties to
3 whom the material was disclosed, within a reasonable amount of time after
4 disclosure, written notice that the material should have been designated
5 Confidential or Attorneys' Eyes Only. Such notice shall constitute a designation of
6 the information, document or thing as Confidential or Attorneys' Eyes Only under
7 this Stipulated Protective Order.

8 10. When the inadvertent or mistaken disclosure of any information,
9 document or thing protected by privilege or work-product immunity is discovered
10 by the producing party and brought to the attention of the receiving party, the
11 receiving party's treatment of such material shall be in accordance with Federal
12 Rule of Civil Procedure 26(b)(5)(B). Such inadvertent or mistaken disclosure of
13 such information, document or thing shall not by itself constitute a waiver by the
14 producing party of any claims of privilege or work-product immunity. However,
15 nothing in this Order restricts the right of the receiving party to challenge the
16 producing party's claim of privilege if appropriate within a reasonable time after
17 receiving notice of the inadvertent or mistaken disclosure.

18 11. No information that is in the public domain, or that is already known
19 by the receiving party through proper means, or that is or becomes available to a
20 party from a source other than the party asserting confidentiality, rightfully in
21 possession of such information on a non-confidential basis, shall be deemed or
22 considered to be Confidential Information under this Stipulated Protective Order.

23 12. This Stipulated Protective Order shall not deprive any party of its right
24 to object to discovery by any other party or on any otherwise permitted ground.
25 This Order is entered without prejudice to the right of any party to move the Court
26 for modification or for relief from any of its terms.

27 13. This Stipulated Protective Order shall survive the termination of this
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1 action and shall remain in full force and effect unless modified by an Order of this
2 Court or by the written stipulation of the parties filed with the Court.

3 14. Upon final conclusion of this litigation, each party or other individual
4 subject to the terms of this Order shall assemble and return to the originating source
5 all originals and unmarked copies of documents and things containing Confidential
6 or Attorneys' Eyes Only Information, provided, however, that counsel may retain
7 complete copies of all transcripts, exhibits and pleadings for archival purposes,
8 subject to the provisions of this Stipulated Protective Order. Alternatively, the
9 parties may employ appropriate methods of destruction for Confidential or
10 Attorneys' Eyes Only Information. Whether the Confidential or Attorneys' Eyes
11 Only material is returned or destroyed, the receiving party must submit a written
12 certification to the producing party (and, if not the same person or entity, to the
13 designating party) within sixty (60) days of final judgment that verifies all the
14 protected material that was returned or destroyed and that affirms that the receiving
15 party to the extent reasonably practicable has not retained any copies, abstracts,
16 compilations, summaries or other forms of reproducing or capturing any of the
17 protected material.

18 **IT IS SO ORDERED**

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20 Dated: April 11, 2016

21 _____
22 Hon. Douglas F. McCormick
23 United States Magistrate Judge
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EXHIBIT A TO STIPULATED PROTECTIVE ORDER
AGREEMENT TO BE BOUND BY STIPULATED PROTECTIVE ORDER

I, _____, declare as follows under penalty of perjury:

1. My address is _____.

2. My present employer is _____
and the address of my present employment is _____
_____.

3. My present occupation or job description is _____
_____.

4. I have carefully read and understood the provisions of the Stipulated Protective Order in this case, entitled *Shirley Symonds v. Wyndham Vacation Resorts, Inc.*, et al., case no. 8:15-cv-02083-CJC-DFM (C.D. Cal.), signed by the Court, and I will comply with all provisions of the Stipulated Protective Order.

5. If I am shown any Confidential Information or any words, summaries, abstracts, or indices of Confidential Information, I will hold such information or material in confidence under the Stipulated Protective Order and will not disclose such information or material to anyone who is not permitted to see it under the Stipulated Protective Order.

6. If I am shown any Attorneys' Eyes Only Information or any words, summaries, abstracts, or indices of Attorneys' Eyes Only Information, I will hold such information or material in confidence under the Stipulated Protective Order and will not disclose such information or material to anyone not permitted to see it under the Stipulated Protective Order.

1 7. I will limit use of Confidential Material and Attorneys' Eyes Only
2 Information disclosed to me solely for purpose of my work in connection with the
3 above-captioned lawsuit.

4 8. At a time no later than the final conclusion of the case, I will return, to
5 counsel for the party for whom I was employed or retained, all Confidential
6 Information, Attorneys' Eyes Only Information, and summaries, abstracts, and
7 indices of such information, as well as any documents or notes I have prepared
8 relating to such information.

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10 Dated: _____
11 [Name]
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